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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Bryn Griffiths

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EXAMINER

NEGRON, ISMAEL

ART UNIT

PAPER NUMBER

2885

MAIL DATE

DELIVERY MODE

01/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/560,885

Applicant(s)

GRIFFITHS ET AL.

Examiner

Ismael Negron

Art Unit

2885

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed October 29, 2007 has been entered. Claims 49, 58 and 65 have been amended. No claim has been cancelled, or added. Claims 49-68 are still pending in this application, with claims 49, 58 and 65 being independent.
2. The drawings were received on October 29, 2007. These drawings are not acceptable. See section 5, below.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority based on an applications filed in UNITED KINGDOM on June 12 and November 18 of 2003. It is noted, however, that the cited documents are not directed to the same invention as required by 35 USC 119(a). The cited priority documents fail to disclose a label with a circuit device attached to the back of such label, as claimed in the instant application (as amended).

Abstract

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

4. The abstract of the disclosure is once again objected to because it fails to concisely describe the subject matter of the invention. Correction is required. See MPEP § 608.01(b).

Specification

5. The amendment filed October 29, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: newly presented Figures 5 and 6 now include a label attached to the base/bottom surface of the container.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 49, 50, 53, 54, 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over POLICAPELLI (U.S. Pat. App. Pub. 2004/0004829).

7. POLICAPELLI discloses an illuminated container having:

- **a bottle for fluid contents fabricated from a light-transmitting material (as recited in Claim 49), Figure 1, reference number 10;**

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- **the bottle having an external indentation (as recited in Claim 49), Figure 1A, reference number 13;**
- **the indentation containing a circuit device (as recited in Claim 49), Figure 1A, reference number 14;**
- **the circuit device including a power source (as recited in Claim 49), Figure 1A, reference number 18;**
- **the circuit device including a light-emitter (as recited in Claim 49), Figure 1A, reference number 19;**
- **the light emitter being located on the side of the circuit device adjacent to the container (as recited in Claim 49), as seen in Figure 1A;**
- **the bottle further including an externally-actuable electrical switching arrangement (as recited in Claim 49), Figure 1A, reference number 21;**
- **the switching arrangement being included in the circuit device for connecting the power source to the light-emitter (as recited in Claim 49), as seen in Figure 1A;**
- **the switching arrangement being of a type which is arranged to be actuated only once from OFF to ON (as recited in Claim 49), as evidenced by paragraph 0024;**
- **the light-emitter being arranged, upon actuation of said switching arrangement from OFF to ON, to illuminate the**

contents of the bottle (as recited in Claim 49), as evidenced by paragraph 0024;

- **the bottle including a label (as recited in Claim 49), paragraph 0042;**
- **the switching arrangement being arranged to be actuated independently of opening the bottle and independently of moving the bottle (as recited in Claim 50), as evidenced by paragraph 0024;**
- **the switching arrangement being capable of being actuated magnetically (as recited in Claim 53), as evidenced by Figure 1A;**
- **the light-emitter being arranged, upon actuation of said switching arrangement from OFF to ON, to illuminate the contents of the bottle until the power source is exhausted (as recited in Claim 54), as evidenced by paragraph 0024;**
- **the power source being a battery of substantially flat shape (as recited in Claim 56), as seen in Figure 1A; and**
- **the light-emitter including a light-emitting diode of substantially flat shape (as recited in Claim 57), as seen in Figure 1A.**

8. POLICAPELLI discloses all the limitations of the claims, except the circuit device being attached to a back surface of the label (as recited in Claim 49).

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9. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to position the label over the patented circuit device of POLICAPPELLI to hide such device from view. In addition, it is noted that it is not only old and well known in the art, but a standard practice, to position labels over the location disclosed by POLICAPPELLI for the patented circuit device.

10. Claims 51, 52 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over POLICAPPELLI (U.S. Pat. App. Pub. 2004/0004829) in view of CARSON (U.S. Pat. 6,254,247).

11. POLICAPPELLI discloses, or at least suggests, all the limitations of the claims (as detailed in previous sections 7-9), except:

- the container further including an insulating tab (as recited in Claim 51);
- the switching arrangement being activated by removal of the insulating tab (as recited in Claim 51);
- the bottle having a closure element (as recited in Claim 52)
- the location of the tab being spaced from the closure element (as recited in Claim 52); or
- the light-emitter being arranged, upon actuation of said switching arrangement from OFF to ON, to illuminate the contents of the bottle for about 15 to 20 minutes (as recited in Claim 55).

12. CARSON discloses an illuminated container having:

- **a bottle for fluid contents fabricated from a light-transmitting material (as recited in Claim 49), Figure 1, reference number 12;**
- **a circuit device (as recited in Claim 49), Figure 1, reference number 62;**
- **the circuit device including a power source (as recited in Claim 49), Figure 1, reference number 74;**
- **the circuit device including a light-emitter (as recited in Claim 49), Figure 1, reference number 64;**
- **the bottle further including an externally-actuable electrical switching arrangement (as recited in Claim 49), Figure 1, reference number 76;**
- **the container further including an insulating tab (as recited in Claim 51), Figure 1, reference number 78;**
- **the switching arrangement being activated by removal of the insulating tab (as recited in Claim 51), columns 4 and 5, lines 62-67 and 1-3, respectively;**
- **the bottle having a closure element (as recited in Claim 52), Figure 1, reference number 30;**
- **the location of the tab being spaced from the closure element (as recited in Claim 52), as seen in Figure 1; and**

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- the light-emitter being arranged, upon actuation of said switching arrangement from OFF to ON, to illuminate the contents of the bottle for about 15 to 20 minutes (as recited in Claim 55), column 4, lines 42-44.

13. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to use the switching arrangement of CARSON in the patented device of POLICAPELLI, to prevent such device from being accidentally energized prior to delivery to an end user, and to preserve the power source by powering the illumination device by a prescribed period of time, as per the teachings of CARSON.

14. Claims 58-60, 63 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over POLICAPELLI (U.S. Pat. App. Pub. 2004/0004829).

15. POLICAPELLI discloses a portable container having:

- **a light-emitter (as recited in Claim 58)**, Figure 1A, reference number 19;
- **an event-detecting arrangement (as recited in Claim 58)**, Figure 1A, reference number 21;
- **a self-contained power source (as recited in Claim 58)**, Figure 1A, reference number 18;

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- **a connector being for connecting the light-emitter with the event-detecting arrangement and the power source (as recited in Claim 58), as required for operation;**
- **light being emitted by the light-emitter on detection of one or more predetermined events by the event-detecting arrangement (as recited in Claim 58), paragraph 0024;**
- **the container being at least partially fabricated from a material able to transmit light (as recited in Claim 58), as evidenced by Figure 1A;**
- **the light-emitter being arranged to be able to illuminate the contents of the container (as recited in Claim 58), as evidenced by Figure 1A;**
- **the bottle including a label (as recited in Claim 58), paragraph 0042;**
- **the contents being illuminated substantially uniformly (as recited in Claim 59), as evidenced by Figure 1A;**
- **the container being arranged in normal use such that after detection of an event, light is emitted until the power source is exhausted (as recited in Claim 60), as evidenced by paragraph 0024;**
- **the light-emitter includes at least one light-emitting diode (as recited in Claim 63), Figure 1A, reference number 19;**

- **the light-emitter and the power source being located in an indentation external to the container (as recited in Claim 64), as seen in Figure 1A**

16. POLICAPELLI discloses all the limitations of the claims, except the circuit device being attached to a back surface of the label (as recited in Claim 58).

17. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to position the label over the patented circuit device of POLICAPELLI to hide such device from view. In addition, it is noted that it is not only old and well known in the art, but a standard practice, to position labels over the location disclosed by POLICAPELLI for the patented circuit device.

18. Claims 61 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over POLICAPELLI (U.S. Pat. App. Pub. 2004/0004829) in view of CARSON (U.S. Pat. 6,254,247).

19. POLICAPELLI discloses, or at least suggests, all the limitations of the claims (as detailed in previous sections 15-17), except:

- the activating event including the opening of the container (as recited in Claim 61); or
- the container including a removable insulating tab (as recited in Claim 62).

20. CARSON discloses a portable container having:

- **a light-emitter (as recited in Claim 58), Figure 1, reference number 64;**
- **an event-detecting arrangement (as recited in Claim 58), Figure 1, reference number 76;**
- **a self-contained power source (as recited in Claim 58), Figure 1, reference number 74;**
- **light being emitted by the light-emitter on detection of one or more predetermined events by the event-detecting arrangement (as recited in Claim 58), columns 4 and 5, lines 62-67 and 1-3, respectively;**
- **the container being arranged in normal use such that after detection of an event, light is emitted until the power source is exhausted (as recited in Claim 60), columns 4 and 5, lines 62-67 and 1-3, respectively;**
- **the activating event including the opening of the container (as recited in Claim 61), column 5, lines 8-11; and**
- **the container including a removable insulating tab (as recited in Claim 62), Figure 1, reference number 78.**

21. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to use the switching arrangement of CARSON in the

patented device of POLICAPELLI, to prevent such device from being accidentally energized prior to delivery to an end user, and to activate the illumination device automatically upon the container being opened, as per the teachings of CARSON.

22. Claims 65-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over POLICAPELLI (U.S. Pat. App. Pub. 2004/0004829) in view of CARSON (U.S. Pat. 6,254,247).

23. POLICAPELLI discloses a portable container having:

- **an output signal emitter (as recited in Claim 65), Figure 1A, reference number 19;**
- **a self-contained power source for the signal emitter (as recited in Claim 65), Figure 1A, reference number 18;**
- **the power source being connected to the signal emitter by a connection including a switch (as recited in Claim 65), Figure 1A, reference number 21;**
- **the container having a closure element (as recited in claims 66 and 67), as evidenced by Figure 1A;**
- **the output signal being light (as recited in Claim 68), as evidenced by paragraph 0024;**

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- **the container being at least partially fabricated from a material able to transmit light (as recited in Claim 68), as evidenced by Figure 1A; and**
- the output signal emitter being arranged to illuminate any contents within the interior of the container (as recited in Claim 68), as evidenced by Figure 1A.

24. POLICAPELLI discloses, or at least suggests, all the limitations of the claims, except:

- the switch being arranged to be maintained open by a removable insulating tab (as recited in Claim 65);
- the arrangement being such that, on removal of the insulating tab, the switch closes and an output signal is emitted (as recited in Claim 65);
- the tab being located at or in the closure element of the container (as recited in Claim 66); or
- the location of the tab on the container being spaced from the closure element of the container (as recited in Claim 67).

25. CARSON discloses a portable container having:

- **an output signal emitter (as recited in Claim 65), Figure 1, reference number 64;**

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- **a self-contained power source for the signal emitter (as recited in Claim 65), Figure 1, reference number 74;**
- **the power source being connected to the signal emitter by a connection including a switch which is arranged to be maintained open by a removable insulating tab (as recited in Claim 65), Figure 1, reference number 78;**
- **the arrangement being such that, on removal of the insulating tab, the switch closes and an output signal is emitted (as recited in Claim 65), columns 4 and 5, lines 62-67 and 1-3, respectively;**
- **the container having a closure element (as recited in claims 66 and 67), Figure 1, reference number 30;**
- **the tab being located at or in the closure element of the container (as recited in Claim 66), as evidenced by column 5, lines 8-11;**
- **the location of the tab on the container being spaced from the closure element of the container (as recited in Claim 67), as seen in Figure 1; and**
- **the output signal being light (as recited in Claim 68), column 3, lines 37-39.**

26. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to use the switching arrangement of CARSON in the

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patented device of POLICAPELLI, to prevent such device from being accidentally energized prior to delivery to an end user, as per the teachings of CARSON.

Relevant Prior Art

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Russell (U.S. Pat. 5,339,548), **Ratcliffe et al.** (U.S. Pat. 5,785,407), **Lewis et al.** (U.S. Pat. 6,420,008) and **Johnson** (U.S. Pat. App. Pub. 2005/0024858) disclose container having illuminations means positioned in an external indentation, some with the device attached to the back surface of a label.

Response to Arguments

28. Applicant's arguments filed October 29, 2007 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

30. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (703) 308-6086. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James) Lee, can be reached on (571) 272-7044. The facsimile machine number for the Art Group is (571) 273-8300.

32. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications maybe obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.

/Ismael Negron/
Examiner
AU 2885